



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/076,036	02/13/2002	John Joseph Mascavage III	020375-002100US	7402

20350 7590 01/16/2009  
TOWNSEND AND TOWNSEND AND CREW, LLP  
TWO EMBARCADERO CENTER  
EIGHTH FLOOR  
SAN FRANCISCO, CA 94111-3834

EXAMINER
----------

MAGUIRE, LINDSAY M

ART UNIT	PAPER NUMBER
----------	--------------

3692

MAIL DATE	DELIVERY MODE
-----------	---------------

01/16/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/076,036	<b>Applicant(s)</b> MASCavage ET AL.	
	<b>Examiner</b> LINDSAY M. MAGUIRE	<b>Art Unit</b> 3692	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 November 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-22 and 24-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 and 24-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

This Non-Final Office Action is in response to the application filed on February 13, 2002 and the amendments filed on January 31, 2007, the Appeal Brief filed on October 9, 2007, the response filed on February 28, 2008, the Request for Continued Examination filed on July 10, 2008, and the response filed on November 19, 2008.

#### ***Claim Objections***

Claim 24 is objected to because of the following informalities: claim 24 is listed as being dependent off of claim 23, which has been cancelled. In the interest of compact prosecution claim 24 has been examined as if it were dependent from claim 22. Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-22 and 24-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 6,058,417 (Hess et al. '417), in view of U.S. Pat. No. 7,120,608 (Gallagher et al. '608) and in further view of [www.tomsown.com/htmlsnippet.html](http://www.tomsown.com/htmlsnippet.html) (Tomsown).

**Re Claim 1:** Hess et al. '417 disclose a method, the method comprising steps of: receiving login information relevant to a vending site, wherein the login information is associated with the seller (column 7, lines 15-16); automatically determining listings at the vending site associated with the seller wherein the listings offer goods or services for sale (Figure 1); generating a plurality of HTML code for the listings, wherein each includes a link (Figure 1, column 1, lines 47-51); automatically inserting one of the plurality of code into each of the listings. Additionally, Hess et al. '417 disclose a vending site for person-to-person sales (abstract) that is an auction site with a listing of auctions (column 1, lines 15-21), and determining that a listing has changed, and changing a graphic (Figure 8; column 8, line 60 – column 9, line 3).

Hess et al. '417 disclose the method substantially as claimed with the exception of requiring: (a) facilitating payment between a buyer and a seller with an online money transfer performed over a wide area network (lines 1-2); (b) wherein activating the link points a web browser to a payment enabler that can transfer money from the buyer to the seller, and wherein the vending site is separate from the payment enabler (lines 13-15); and (c) generating a plurality of snippets of HTML code for the listings, wherein each snippet includes a link;

Regarding (a) and (b), Gallagher et al. '608 disclose facilitating payment between a buyer and a seller with an online money transfer performed over a wide area network (abstract) and that activating a link points a web browser to a payment enabler that can

Art Unit: 3692

transfer money from the buyer to the seller (column 2, lines 24-30), and that the payment enabler is a separate site from the vending site (abstract). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Hess et al. '417, in view of the teachings of Gallagher et al. '608, for the basic reason of combining elements old and well known in the art to yield predictable results, (see Hess et al. '417, column 7, lines 24-25, that states that the seller may specify acceptable payment methods; i.e. payment through another site).

Regarding (c), Tomsown discloses that the use of html snippets is links and buttons is well known in the art to place a link associated with a graphic or button. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hess et al. '417, in view of the teachings of Tomsown, to include the use of HTML snippets for the basic reasoning of creating buttons that act as links for users.

**Re Claim 2:** Hess et al. '417/Gallagher et al. '608/Tomsown disclose the method in supra, including that one of the plurality of snippets indicates a graphic associated with the snippet and information unique to the seller and a listing including the snippet (Tomsown; Hess et al. '417: column 8, line 60 - column 9, line 3).

**Re Claim 3:** Hess et al. '417/Gallagher et al. '608/Tomsown disclose the method in supra, wherein: the determining step comprises a step of concluding the listing has

Art Unit: 3692

matured, whereby the purchaser is fixed (Hess et al. '417: column 8, line 60 – column 9, line 3); and the changing step comprises a step of modifying a button graphic displayed by the snippet to reflect the listing is available to the buyer (Gallagher et al. '608; column 2, lines 24-30).

**Re Claim 4:** Hess et al. '417/Gallagher et al. '608/Tomsown disclose the method in supra, including determining one of the plurality of listings has matured, whereby the buyer is fixed (Hess et al. '417: i.e. the listing has expired, or the auction has ended, see ending time 105); automatically determining an electronic address of the purchaser (Gallagher et al. '608; column 2, line 65 - column 3, line 1; i.e. i.e. in order to send a message that the funds have been received, the system would have to automatically determine the address); and automatically sending a message to the electronic address of the purchaser (Gallagher et al. '608: column 2, line 65 - column 3, lines 1).

**Re Claim 5:** Hess et al. '417/Gallagher et al. '608/Tomsown disclose the method in supra, including wherein the message includes at least one of a web page, an instant message, an e-mail message, a pager message, or a wireless phone message (Gallagher et al. '608: column 2, line 66).

**Re Claim 6:** Hess et al. '417/Gallagher et al. '608/Tomsown disclose the method in supra, including further comprising a step of automatically determining a purchase price from the vending site (Hess et al. '417: i.e. the final price listed).

**Re Claim 7:** Hess et al. '417/Gallagher et al. '608/Tomsown disclose the method in supra, including that the message includes a snippet that points to the payment enabler and includes information relating to a listing associated with that snippet (Tomsown; Gallagher et al. '608: column 2, lines 24-30, Figure 3).

**Re Claim 8:** Hess et al. '417/Gallagher et al. '608/Tomsown disclose the method in supra, including comprising a step of determining from the vending site at least one of: a purchase price, a shipping amount, a listing description, a reference identifier used by the vending site, or an e-mail address of the buyer (Hess et al. '417: column 7, lines 24-27; Figure 9A).

**Re Claim 9:** Hess et al. '417/Gallagher et al. '608/Tomsown disclose the method in supra, including comprising a step of receiving selection of a button graphic for display by the snippet (Tomsown; Hess et al. '417: column 6, lines 42-45; column 8, line 60 – column 9, line 45).

**Re Claim 10:** Hess et al. '417/Gallagher et al. '608/Tomsown disclose the method in supra, receiving authorization from the buyer to debit a money handler associated with the buyer (Gallagher et al. '608: abstract); and adding a credit in a stored value account of the seller as a result of the receiving authorization step (Gallagher et al. '608: abstract, column 2, lines 24-67).

**Re Claim 11:** Hess et al. '417/Gallagher et al. '608/Tomsown disclose the method in supra, including comprising a step of receiving at least two of a shipper selection, shipping insurance cost information, an address for the seller, tax information, an item description, a reference number, a payment enabler category, a purchase price, a phone number for the seller, a close date for the listing, or a quantity of items in the listing (Hess et al. '417: column 7, lines 24-28; Figure 9A).

**Re Claim 12:** Hess et al. '417/Gallagher et al. '608/Tomsown disclose the method in supra, including comprising a step of receiving from the seller a message that is embedded in the plurality of snippets for display as part of each listing (Tomsown; Hess et al. '417: Figure 9A).

**Re Claim 13:** Hess et al. '417/Gallagher et al. '608/Tomsown disclose the method in supra, including comprising a step of receiving login information relevant to a plurality of vending sites, wherein the login information for each of the plurality of vending sites is associated with the seller (Hess et al. '417: column 7, lines 15-16).

**Re Claims 14-22 & 24-27:** Further method claims would have been obvious from the previously rejected method claims 1-13 and are therefore rejected using the same art and rationale.



### ***Response to Arguments***

Applicant's arguments with respect to claims 1-22 & 24-27 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Examiner has pointed out particular references contained in the prior arts of record in the body of this action for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the response, to consider fully the entire references as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior arts of disclosed by the examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LINDSAY M. MAGUIRE whose telephone number is (571)272-6039. The examiner can normally be reached on M-F: 7-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kambiz Abdi can be reached on (571) 272-670202. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3692

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Lindsay M. Maguire  
1/15/09  
/Lindsay M Maguire/  
Examiner, Art Unit 3692

/Kambiz Abdi/  
Supervisory Patent Examiner,  
Art Unit 3692